

Mike Powell

06/14/2005 04:22 PM

To: jmessina@mintz.com
cc: tom@siliconedgelaw.com
Subject: Source Code and 30b6 Witness

Counsel:

Once again the tone of your correspondence is unwarranted and unprofessional. In addition, your letter ultimately fails to address two very discrete issues set forth in my correspondence from earlier today. In order to avoid any further confusion, the specific questions I would like you to answer are as follows:

1. Is the source code presently available for inspection in Mintz Levin's Boston office?
2. Does Mangosoft intend to make a witness available on the topics set forth in Oracle's March 10, 2005 notice?

As a professional courtesy, I had anticipated that you could provide an advance indication of the availability of the source code so that I did not have to proceed needlessly with scheduling Oracle's expert to begin the inspection only to find out later that the materials were not yet available for inspection in Boston. Apparently, I underestimated Mangosoft's resolve to avoid such cooperation (though your letter implies that the source code is, in fact, not yet available for inspection in Boston). Also, if your position is that the source code will not be available in Boston, where do you suggest the inspection take place?

Regarding the 30b6 designee, Mangosoft just needs to provide a straight answer. Either you still cannot produce a witness after 3 months of trying or you can. If your answer is the former, Oracle will need to obtain a Court order. If your answer is the latter, you should be able to provide dates for the deposition. As it stands, Mangosoft is simply avoiding the question without any explanation.

I am not sure why the two questions set forth above elicited such an obnoxious (and ultimately nonresponsive) reply. Oracle has been extremely patient and, in the future, would appreciate a straightforward answer to the questions presented for your consideration.

Lastly, your accusations about Oracle's document production are baseless. I suggest you take another look at Mangosoft's document requests and Oracle's responses and production. If after your review you have specific concerns, please let me know and I will investigate those concerns. As it stands, I have addressed Mangosoft's speculations in written correspondence and in a telephone conference with Mr. Lathram.

Regards,

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